Veterans Clinic Research Training

Liz Parker
Publication Services Librarian
eparker-10@sandiego.edu
Introduction

❖ Librarians are available to help with clinic research

❖ You can reach us via chat: sandiego.edu/law/library
❖ or email: lrcrefer@sandiego.edu

❖ Resources you use in the clinic will differ from those used in LWR
Research Training

❖ Resources
  ❖ LRC Databases
  ❖ Government websites
  ❖ Other online resources

❖ Gather background information on individuals – clients & witnesses

❖ Conduct a litigation search to research potential defendants

❖ Research past discharge upgrade cases

❖ Additional resources from other veterans advocates
Resources
Useful LRC Materials for Practice

- Civil practice
- Pre-trial procedure
- Trial procedure
- Appeals & writs
- Rules of court
- Formbooks & drafting tools
- Jury instructions
- Arbitration
- Client communications
California Court Materials

- California Rules of Court
- Local Rules, including San Diego County
- Forms
- Jury Instructions
Pardee Legal Research Center

The law library exists to support the educational and scholarly activities of the USD law community.

Interesting news: the LRC is now open for 24/7 access to USD students, faculty, and staff!

Quick Links
- Online Study Aids
- Study Room Reservations
- LRC Access Information
- CALI code
- Faculty Services
- San Diego Circuit
- Course Reserves & Past Exams
- Library Account | Classic Catalog | Course Reserves | Past Exams

Search LRC

Search Catalog

Databases

Contact the LRC
Circulation Desk
lrccirc@sandiego.edu
619-260-4542

Reference Desk
lrcref@sandiego.edu
619-260-4612
Zoom appointments available on request
LRC Digital Resources

Recommended and subscription resources. Those marked with a lock symbol require username/password or IP authentication.

Popular Databases

The most frequently-used databases

Bloomberg Law
Bloomberg legal content, integrated into an already powerful system of primary and secondary legal content, company and market information and news. Individual user access is given to USD law students and faculty. You must register with Bloomberg to gain access to its products and services. Please contact the LRC reference desk to obtain a Bloomberg Law account.

CALL Lessons
Students: use the authorization code you see after logging into USDwire. Faculty: contact the reference desk for the full CALL Lessons.

CEB OnLaw Pro
CEB Onlaw Pro provides access to CEB's California practice guides, primary law, case law citator, and continuing legal education materials. New USD users must create their own accounts. Click here for the law school's registration code, then create a new law student/faculty/admin account here or a new paralegal student/faculty/admin account here.

Congressional Publications (ProQuest)
Publications generated by the U.S. Congress and accessed via ProQuest, including: CIS Legislative Histories, 1699-present; House & Senate Reports, 1817-present; House & Senate Hearings, 1824-present; Congressional Research Service (CRS) Reports, 1967-present; House & Senate Documenta, 1617-present, and Committee Prints & Miscellaneous Publications, 1630-present, Executive Reports, 1645-present, & Executive Documents, 1823-1909. Serial Set, 1783-present.

HeinOnline
HeinOnline is a premier online database containing more than 173 million pages and 270,000 titles of historical and government documents in a fully searchable, image-based format. HeinOnline bridges an important research gap by providing comprehensive coverage from inception of more than 2,700 law-related periodicals. In addition to its vast collection of academic journals, HeinOnline contains the entire Congressional Record, Federal Register, and Code of Federal Regulations, complete coverage of the U.S. Reports back to 1754, and entire databases dedicated to treaties, etc.

Academic Search Premier
Provides full text for over 2,840 scholarly publications including social sciences, humanities, education, computer sciences, engineering, language and linguistics, arts & literature, health sciences, and ethnic studies.

AILAlink
AILAlink is the go-to resource for immigration law research, providing its subscribers with access to immigration-related statutes, regulations, and important case law (select), agency correspondence, and manuals. AILA/government liaison minutes, forms, and a plethora of AILA publications.

Appeals
Helps more than 100,000 taxpayers each year resolve their tax disputes without going to Tax Court. An IRS site.

Avalon Project - Documents in Law, History and Diplomacy (Yale’s)
The Avalon Project will host digital documents relevant to the fields of Law, History, Economics, Politics, Diplomacy and Government. We do not intend to make only static text, but rather to add value to the text by linking to supporting documents expressed in the body of the text.

The Avalon Project will no doubt contain controversial documents. Their inclusion does not indicate endorsement of their contents nor sympathy with the ideology, doctrines, or means employed by their authors. They are included for the sake of completeness and balance and because in many cases they are by our definition a supporting document.

Bloomberg Law
Bloomberg legal content, integrated into an already powerful system of primary and secondary legal content, company and market information and news. Individual user access is given to USD law students and faculty. You must register with Bloomberg to gain access to its products and services. Please contact the LRC reference desk to obtain a Bloomberg Law account.

CA State Trademarks
LEXIS
Active Records: From April 4, 1886 through current
Rental Car Agencies Aren't Required To Investigate Prospective Renters' Residence Status, Second District Holds

Katherine Proctor  October 07, 2022

Deciding a case of first impression, California's Second District Court of Appeal held Thursday that under the state's Vehicle Code, rental car agencies don't have a duty to investigate the residence status of a prospective renter who provides a facially valid foreign driver's license, but a local California address on the rental paperwork.

Better Safe Than Sorry: Mind the Safe Harbor Rule Before Filing a Motion for Sanctions

Megan Oliver Thompson  October 07, 2022

Two recent California court of appeal cases serve as good reminders of the importance of complying with the safe harbor rule when filing a motion for sanctions under Code of Civil Procedure sections 128.5 or 128.7. In Transcon Fin., Inc. v. Reid & Helyer, APC (2022) 91 Cal.App.5th 547, and Broadcast Music, Inc. v. Structured Asset Sales, LLC (2022) 75 Cal.App.5th 599, the courts addressed two different safe harbor issues, in both cases holding that the moving party had not complied and, therefore,
Find Secondary Source Publications using the search field above

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U.S. Department of Veterans Affairs

- Veterans Benefits Administration
- Veterans Health Administration
- National Cemetery Administration
Welcome

The United States Court of Appeals for Veterans Claims is a national court of record, established under Article I of the Constitution of the United States. The Court has exclusive jurisdiction to provide judicial review of final decisions by the Board of Veterans' Appeals, an entity within the Department of Veterans Affairs.

The Court provides veterans an impartial judicial forum for review of administrative decisions by the Board of Veterans' Appeals that are adverse to the veteran-appellant's claim of entitlement to benefits for service-connected disabilities, survivor benefits and other benefits such as education payments and waiver of indebtedness. In furtherance of its mission, the Court also seeks to help ensure that all veterans have equal access to the Court and to promote public trust and confidence in the Court.

[ View Recent Decisions and Precedential Opinions ]

E-File Here
Registered Users Only

Search Decisions

Find Representation
https://www.bva.va.gov/
Background on Individuals
# Background on Individuals

## Public Records
- Lexis
- Search Systems

## Social Media
- Facebook
- Instagram
- LinkedIn
- Twitter
Litigation Search
Dockets

- **Bloomberg Law**
  - Includes all federal dockets, limited access to state
  - Free to USD Law users
  - Not all documents are available

- **Westlaw, Lexis**

- **Court websites**
  - Some courts provide dockets online for a fee
  - Other courts – call court clerk
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<td>Oct 15, 2012</td>
<td>Request</td>
<td>Case assigned to Judicial Officer Prager, Ronald</td>
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<td>Oct 15, 2012</td>
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<td>Case initiation form printed</td>
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<td>BL-7</td>
<td>Nov 19, 2012</td>
<td>Request</td>
<td>Motion Hearing (CML) scheduled for</td>
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</table>

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ATTORNEYS FOR PLAINTIFFS
RACHEL CORDOVA, ROSALINDA MENDEZ,
AND MARTHA YATES

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

RACHEL CORDOVA, ROSALINDA MENDEZ,
AND MARTHA YATES
INDIVIDUALLY AND OR ON BEHALF OF THE GENERAL PUBLIC,

PLAINTIFFS,

V.

UNITED EDUCATION INSTITUTE, A
CALIFORNIA CORPORATION, AND DOES 1
THROUGH 36, INCLUSIVE

DEFENDANTS.

CASE NO.: 37-2012-00083573-CU8T-CTL

CLASS ACTION

COMPLAINT FOR DAMAGES, INJUNCTIVE RELIEF AND RESTITUTION

1. Deceptive Practices (Violation of Consumers Legal Remedies Act, Cal. Civil Code §§ 1750 etc.)
3. Misleading and Deceptive Advertising (Violation of Cal. Bus. & Prof. Code § 17500 etc.)
4. Fraud

Action Filed: None set
Researching Common Veterans Legal Issues
VA Benefits
Resources on VA Benefits

Veterans Benefits Administration website
https://benefits.va.gov/benefits/

Manuals
- VA Benefits Manual
- Manual M21-1 (VA rules and procedures for deciding benefit claims)
- WARMS (reference material about VA benefits)

Cases
- Board of Veterans Appeals (BVA)
- Court of Appeals of Veterans Claims (CAVC)

Statutes and Regulations
- United States Code, Title 38
- CFR and Federal Register (WL, LX, or free government sites)
# Applying for Benefits

There are numerous ways to apply for VA benefits depending on the type of benefit you are seeking. We encourage you to work with an accredited representative who can assist you with the claims process. You can find and appoint or manage your accredited representative in eBenefits.

<table>
<thead>
<tr>
<th>Benefits</th>
<th>How To Apply</th>
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<tbody>
<tr>
<td>Before leaving military service – pre-discharge claims</td>
<td>If you are a member of the armed forces serving on either active duty or full-time National Guard duty, you should apply through the VA Pre-discharge claim program before leaving service.</td>
</tr>
<tr>
<td>Veteran Readiness and Employment benefits for service members and Veterans</td>
<td>The best way to file for Veteran Readiness and Employment services is to apply online at va.gov/careers-employment. To submit a paper application, download and complete a VA Form 28-1000, &quot;Disabled Veterans Application for Vocational Rehabilitation&quot; and mail it to your local regional office. You may also go to your local regional office and turn in your application for processing. Visit the Veteran Readiness and Employment (VR&amp;E) website.</td>
</tr>
<tr>
<td>Disability compensation benefits for Veterans</td>
<td>The best way to file for disability compensation is to apply online at <a href="http://www.va.gov/disability">www.va.gov/disability</a>. To submit a paper application, download and complete VA Form 21-526EZ, &quot;Application for Disability Compensation and Related Compensation Benefits&quot; and mail the application to U.S. Department of Veterans Affairs, Claims Intake Center, PO Box 4444, Janesville, WI 53547-4444. Or, you can fax it to (608) 531-7818 (inside the U.S.) (248) 524-4200 (outside the U.S.). You can also go to your local regional office and turn in your application for processing. Visit the VA Compensation website for more information about compensation benefits.</td>
</tr>
</tbody>
</table>
Applying for Benefits and Your Character of Discharge

Generally, in order to receive VA benefits and services, the Veteran’s character of discharge or service must be under other than dishonorable conditions (e.g., honorable, under honorable conditions, general). However, individuals receiving undesirable, bad conduct, and other types of dishonorable discharges may qualify for VA benefits depending on a determination made by VA.

Read the factsheet on claims for benefits involving other-than-honorable discharges.

Correcting Military Records

Each of the military services maintain a discharge review board with authority to change, correct or modify discharges or dismissals not issued by a sentence of a general court-martial.

Learn how to apply for a discharge upgrade using the VA Upgrade Wizard.

Specific Benefit Program Character of Discharge Requirements

Discharge Requirements for Compensation Benefits
To receive VA compensation benefits and services, the Veteran’s character of discharge or service must be under other than dishonorable conditions (e.g., honorable, under honorable conditions, general).

Discharge Requirements for Pension Benefits
To receive VA pension benefits and services, the Veteran’s character of discharge or service must be under other than dishonorable conditions (e.g., honorable, under honorable conditions, general).

Discharge Requirements for Education Benefits
To receive VA education benefits and services through the Montgomery GI Bill program or Post-9/11 GI Bill program, the Veteran’s character of discharge or service must be honorable.

To receive VA education benefits and services through any other VA educational benefits program, including the Survivors’ and Dependents’ Educational Assistance (DEA) program, the Veteran’s character of discharge or service must be under other than dishonorable conditions (e.g., honorable, under honorable conditions, general).

Discharge Requirements for Home Loan Benefits
To receive VA home loan benefits and services, the Veteran’s character of discharge or service must be under other than dishonorable conditions (e.g., honorable, under honorable conditions, general).
5.2 RATING THE DEGREE OF DISABILITY FOR PARTICULAR TYPES OF DISABILITIES

5.2.1 Evaluation of Musculoskeletal Disabilities

5.2.1.1 Introduction

As the result of military service, a veteran may incur traumatic injuries resulting from gunshot, shell fragments, athletic activity or physical training, and other trauma. These traumatic injuries may cause multiple disabilities including muscle damage, motor and sensory nerve impairment, impairment of adjacent joints, and, in severe instances, amputation.

The residuals of traumatic injuries generally create musculoskeletal disabilities. The term musculoskeletal refers to the skeleton and the muscles. In the context of VA disability benefit law, musculoskeletal disabilities are disabilities of the bones, the muscles, the nerves, and the joints. In addition, scars that are caused by penetrating missile wounds or by other traumatic injuries must also be considered when evaluating a musculoskeletal disability.

A single traumatic injury may cause multiple disabilities of the muscles and nerves, limitation of motion in the joint, and loss of function of the joint that is injured. The traumatic disability is the result of a single injury, and the VA will evaluate each of the disabilities caused by the same injury separately.
The examiner does not provide the detail required by 38 C.F.R. §§ 4.40 and 4.45 when describing the effects of pain or other impairments on the motion of a joint.

Another type of common error involves examinations that are used by VA to rate disabilities of the musculoskeletal system under 38 C.F.R. § 4.71a (2020). In the context of examinations evaluating functional loss in the musculoskeletal system under Diagnostic Codes (DCs) based on limitation of motion, the examination must take into account the additional degree of range of motion lost in a veteran's joint as a result of pain, including during periods where the claimant suffers a flareup or when the joint is used repeatedly over time. In Mitchell v. Shinseki, the Court found that when providing this information, the examiner must specifically indicate at “what point during the range of motion the appellant experience[s] any limitation of motion that [is] specifically attributable to pain,” and that the examiner must provide the same level of detail when describing functional loss during flareups, or when the joint is used repeatedly over time, or explain why such information cannot “feasibly be provided.”

It should also be noted that under Mitchell, interference with the function of a joint caused by less or more movement than is normal, weakened movement, excess fatigability, or incoordination is to be rated the same as “functional loss [that is] caused by some other factor (e.g., deformity, adhesion, atrophy, tendon-tie-up, see 38 C.F.R. §§ 4.40, 4.45(a)), that actually limit[s] motion.” As a result, an examination would also be inadequate if the examiner indicates that there is additional functional loss caused by weakness or fatigability, but fails to describe that increased functional loss in terms of additional degrees of motion lost.
Resources on Discharge Upgrades

VA Website

How to Apply for a Discharge Upgrade

Manuals

- Yale Veterans Legal Services Clinic
  - Forms & Resources for Veterans Seeking Discharge Upgrade
  - Veterans Discharge Upgrade Manual
- Military Discharge Upgrade Legal Practice Manual
  (available in print at USD Legal Clinics)

Cases

Military Review Boards (Discharge Review Boards and BCMR)
Military Review Boards

Army
- Discharge Review Board
- Board for Correction of Military Records

Navy & Marine Corps
- Discharge Review Board
- Board for Correction of Naval Records

Air Force
- Discharge Review Board
- Board for Correction of Military Records

Coast Guard
- Discharge Review Board
- Board for Correction of Military Records
How to Apply for a Discharge Upgrade

Answer a series of questions to get customized step-by-step instructions on how to apply for a discharge upgrade or correction. If your application goes through and your discharge is upgraded, you’ll be eligible for the VA benefits you earned during your period of service.

All branches of the military consider you to have a strong case for a discharge upgrade if you can show your discharge was connected to any of these categories:

- Mental health conditions, including posttraumatic stress disorder (PTSD)
- Traumatic brain injury (TBI)
- Sexual assault or harassment during military service (at VA, we refer to this as military sexual trauma or MST)
- Sexual orientation (including under the Don’t Ask, Don’t Tell policy)

The information you enter on the next page is completely confidential.

Get started »

Can I get VA benefits without a discharge upgrade?

Even with a less than honorable discharge, you may be able to access some VA benefits through the Character of Discharge review process. When you apply for VA benefits, we’ll review your
This is the Department of Defense Electronic Reading Room for the Military Departments’ Boards for the Corrections of Military/Navy Records (BCMR) and the Discharge Review Boards (DRB). The reading room contains the decisional documents for each of the Boards from October 1998 to the present for public research. The personal identifiable information (PII) and non-public information have been redacted (removed) from these documents. Decision documents are added by the end of each quarter of the year (31 March, 30 June, 30 September, and 31 December), adding decisions finalized in the preceding quarter. This website is not designed for applicants to obtain the decision on their application or obtain the status of their application. Decisions on applications to these boards are sent directly to the applicants as soon as the board issues the decision. If you wish to request a specific decisional document or have questions on the status of a current application, please contact the appropriate military department board directly using the links shown below.

**Army:**
BCMR/DRB - email: usarmy.pentagon.hqda-arba.mbx.webmaster@mail.mil

**Navy/Marine Corps:**
BCNR - [https://www.secm.sava.mil/mra/bcmr/Pages/Contact_US.aspx](https://www.secm.sava.mil/mra/bcmr/Pages/Contact_US.aspx)
NDRB - [https://www.secnav.navy.mil/mra/CORB/Pages/NDRB/default.aspx](https://www.secnav.navy.mil/mra/CORB/Pages/NDRB/default.aspx)

**Air Force:**
BCMR - email: saf.mbrb.workflow@us.af.mil
PDBR - email: usaf.pentagon.saf-mr.mbx.PDBRPA@mail.mil
DRB - email: usaf.pentagon.saf.mr.mbx.drb-workflow@mail.mil

**Coast Guard:**
BCMR - email: cgbcmr@hq.dhs.gov
DRB - email: drb@uscg.mil

**Links:**
- [Air Force Boards](https://boards.law.af.mil/)
Upgrade.Vet

Search Decisions

Search for...

Filter service(s)
Filter board(s)
Filter year(s)
Filter approval

Veteran Discharge Upgrade Database

Upgrade.Vet is a searchable database of decisions from the U.S. Department of Defense (DoD) Boards for the Corrections of Military/Naval Records (BCMR) and the Discharge Review Boards (DRB). The files on this site were published by the DoD at the Boards of Review Reading Rooms.

Note: these files comprise the entire database of the DoD Reading Rooms as published in late 2015. As of this writing (January 2020), the DoD Reading Rooms have removed access to this information. The decisions are provided here as a convenience for veterans and their representatives who are seeking to understand the decisional history of the DoD BCMR and DRB boards. With few exceptions, each file has been converted from its original format into HTML to enable search and preview. Links to the original documents are provided. Please contact upgrade.vet@gmail.com with any questions or issues.

Browse Decisions

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Military and Veterans Law on WL/LX

- **Lexis** (Practice Area: Military and Veterans Law)
- **Westlaw** (Practice Area: Military Law)
Lexis and Westlaw

Enter a source name, a citation, terms or shep: [citation] to Shepardize

Search all sources on this page | Select sources to search

Cases
All Military & Veterans Law Cases
Court of Appeals for Armed Forces (CAAF)
Military Branches Criminal Appeals
U.S. Court Military Commission Review
US Court of Appeals for Veterans Claims

Statutes and Legislation
All Military & Veterans Law Statutes and Legislation
All Military & Veterans Law Codes & Court Rules
Uniform Code of Military Justice

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Military Law

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- Statutes & Court Rules
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- Regulatory Publications
- Administrative Decisions & Guidance

- Secondary Sources
- Briefs
- Trial Court Documents
- Proposed & Enacted Legislation
- Proposed & Adopted Regulations
Additional Resources

OCBA Veterans & Military Committee

LACBA Veterans Legal Services Project
Additional Resources

ABA Veterans Legal Services Initiative

SDCBA Military Law Section
Questions?

Liz Parker
eparker-10@sandiego.edu

LRC Reference
lrcrefer@sandiego.edu
619.260.4612
www.sandiego.edu/law/library/

Slides will be posted at
www.sandiego.edu/law/library/research-trainings/clinics.php